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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
08 AT SEATTLE

09 LARRY GENE HEGGEM,) CASE NO. C07-1012-MJP-MAT
10)
11 Plaintiff,)
12)
13 v.) ORDER DENYING PLAINTIFF'S
14 ANDREA MATHERN, et al.,) SECOND MOTION FOR
15) APPOINTMENT OF COUNSEL AND
16 Defendants.) STRIKING MOTION TO AMEND
17)
18)
19)

20 The Court, having reviewed plaintiff's second motion for appointment of counsel, plaintiff's
21 motion for leave to file an amended complaint, and the balance of the record, does hereby find and
22 ORDER:

23 (1) Plaintiff's second motion for appointment of counsel (Dkt. No. 22) is DENIED.
24 As plaintiff was previously advised, there is no right to have counsel appointed in cases brought
25 under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel
26 to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional
27 circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*,
28 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding

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01 of exceptional circumstances requires an evaluation of both the likelihood of success on the merits
02 and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal
03 issues involved. *Wilborn*, 789 F.2d at 1331.

04 Plaintiff has neither demonstrated a likelihood of success on the merits nor shown that, in
05 light of the complexity of the legal issues involved, he is unable to articulate his claims pro se.
06 Thus, plaintiff has not demonstrated that this case involves exceptional circumstances which
07 warrant appointment of counsel at the present time.

08 (2) Plaintiff's motion for leave to file an amended complaint (Dkt. No. 23) is DENIED.
09 Plaintiff seeks to amend his complaint to add newly developed evidence which is apparently
10 intended to bolster his claims against two of the named defendants, Andrea Matherne and Marie
11 Cross. Plaintiff failed to submit a proposed amended complaint in conjunction with his motion.
12 This alone is fatal to plaintiff's motion. In addition, however, plaintiff fails to make clear how this
13 newly developed evidence supports any claim that Ms. Matherne or Ms. Cross violated any of his
14 federal constitutional rights.

15 (3) The Clerk shall send copies of this Order to plaintiff and to the Honorable Marsha
16 J. Pechman.

17 DATED this 12th day of February, 2008.

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19 _____
20 Mary Alice Theiler
21 United States Magistrate Judge
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